



Federal Communications Commission  
Washington, D.C. 20554

DA 04-3811  
Released: December 2, 2004  
1800E3-JLB

Ramar Communications II, Ltd.  
c/o Dennis P. Corbett, Esq.  
Leventhal Senter & Lerman, PLLC  
2000 K Street, N.W.  
Suite 600  
Washington, D.C. 20006-1809

Re: Petition for Rulemaking  
KTEL-TV, Carlsbad, New Mexico

Dear Licensee:

This is with respect to the petition for rulemaking filed on August 18, 2003, by Ramar Communications II, Ltd. (Ramar), the license of station KTEL-TV, channel 25, Carlsbad, New Mexico. Ramar requests that the Commission amend the Television Table of Allotments, 47 C.F.R. § 606(b), to reallocate channel 25 from Carlsbad to the community of Moriarty, New Mexico, and further requests that the Commission modify the license of station KTEL-TV accordingly.

In 1989, the Commission adopted Section 1.420(i) of the Commission's rules, which provides that:

In the course of a rule making proceeding to amend [the FM or Television Tables of Allotments], the Commission may modify the license or permit of an FM or television broadcast station to specify a new community of license where the amended allotment would be mutually exclusive with the licensee's or permittee's present assignment.

47 C.F.R. § 1.420(i). The Commission did so because under the procedures then in place, it regarded any petition to amend the FM or Television Table of Allotments that would change an allotment's community of license as an event triggering an opportunity to file applications for the new allotment.<sup>1</sup> As the Commission stated, many licensees and permittees "may be deterred from seeking improvement to technical facilities that would require a modification of its community of license, as they would be at risk of losing their authorization in a comparative hearing."<sup>2</sup> Accordingly, the Commission adopted the procedure set forth in Section 1.420(i), which permits a licensee or permittee to petition for a change in community of license, and modification of its license accordingly, without placing its existing authorization at risk. The Commission made clear, however, that this procedure was limited to situations

---

<sup>1</sup> See *Report and Order, Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

<sup>2</sup> *Report and Order*, 4 FCC Rcd at 4872-73.

in which the new allotment would be mutually exclusive with the existing allotment.<sup>3</sup> As the Commission explained in the *Notice of Proposed Rulemaking* in that proceeding, “a proposed amended allotment is mutually exclusive with an existing allotment if the city reference coordinates for the new allotment are closer to a licensee’s or permittee’s transmitter site than the minimum distance separations specified in our rules.”<sup>4</sup> While Ramar states that its proposal is consistent with Section 1.420(i), because “[t]he proposed allotment site is located 269.27 kilometers from the station’s current site, short of the minimum distance separation required for co-channel television stations,” it used incorrect reference coordinates in reaching its conclusion.

The minimum distance separation requirement for a Zone II co-channel television station on channel 25 is 280.8 kilometers. 47 C.F.R. § 73.610(b)(1). In considering petitions to amend Section 73.606(b) of the Rules, where, as here:

An authorized transmitter site is available for use as a reference point in one community but not in the other for the pertinent channels, separations shall be determined by the distance between the coordinates of the transmitter site as set forth in the FCC’s authorization therefore and the coordinates of the other community as set forth in the publication of the United States Department of the Interior entitled, Index to *The National Atlas of the United States of America*.

47 C.F.R. § 73.611(a)(2). Ramar correctly used the coordinates of the authorized KTEL-TV transmitter site, but failed to use the correct coordinates for the community of Moriarty. Instead, it utilized the coordinates of the transmitter site specified in its petition for rulemaking. The staff has calculated the separation as required in Section 73.611(a)(2), and we conclude that the distance between the authorized KTEL-TV transmitter site, and the center of the city of Moriarty, is 331.7 kilometers, well in excess of the required spacing of 280.8 kilometers. Because the two allotments are fully-spaced, they are not mutually exclusive, and thus, the procedure set forth in 1.420(i) is not applicable here.

In view of the foregoing, the Petition for Rulemaking filed by Ramar Communications II, Ltd., the licensee of KTEL-TV, channel 25, Carlsbad, New Mexico, IS HEREBY DISMISSED.

Sincerely,

W. Kenneth Ferree  
Chief, Media Bureau

---

<sup>3</sup> *Id.* at 4873.

<sup>4</sup> *Notice of Proposed Rulemaking*, 3 FCC Rcd 6890, 6891 (1988).